

### **REMARKS**

Applicant has amended claims 1, 4 and 5 to improve the form of the claims and to clearly distinguish the present claimed invention from the Examiner's citations. It is respectfully submitted that claims 1-5 and 7-8 are in condition for allowance.

Applicant submits corrected FIG. 4 to identify numerals "40" and "32" as they are fully disclosed in the specification at page 6, lines 12-13. It is respectfully believed that such corrections overcome the Examiner's objections to the drawings.

The Examiner has rejected claims 1-5 as being fully anticipated by Cocjin U.S. Patent 3,806,399. The Examiner contends that Cocjin shows an animated tree having a trunk member with openings, each opening having an upper engaging surface (upper end of opening) and a lower engaging surface (lower end of opening), an actuating member within the trunk member for up and down movement and a plurality of flexible branches having their proximal end anchored to the actuating member. Thus, the Examiner contends that each and every element of claims 1-5 is anticipated by Cocjin. It is respectfully requested that the Examiner reconsider this anticipation rejection for the following reasons.

Applicant respectfully submits that although Cocjin's tree includes a trunk with openings 34, a push rod 17 within the trunk that is coupled to a motor 19, Cocjin does not disclose or remotely teach a plurality of flexible tree branches extending through the openings, with the proximal end of the tree branches anchored to the push rod. Instead, Cocjin discloses a structure wherein rockers are somehow pivotally mounted to side extensions of the trunk at each opening to provide a "tilting

axis". These rockers include an arm which is engaged by the push rod to pivot the rocker. Thus, Cocjin does not in any respect disclose or teach "flexible" branches and he certainly does not disclose or teach a structure wherein the proximal end of the branches is anchored to an actuating member. Indeed, Cocjin teaches only that rods 32 may be connected to the outer ends of the rockers to provide branches 3 of a tree to somehow provide a tilting axis for the branches.

Also, the operation of Cocjin's structure is virtually opposite to the claimed invention. Because Cocjin's branches are not anchored to the actuating member, Cocjin's push rod, when in the extended position, permits the rockers and branches to extend outwardly. In the present invention, when the actuating member is extended, the flexible branches engage the upper engaging surface of the opening to collapse the tree. Simply, in the present invention, the position of the actuating member positions the location of the tree branches, as desired. Accordingly, for each and all of the above reasons, Cocjin does not anticipate or render obvious the claimed invention.

Because claims 2-5 and 7 are each dependent from claim 1, it is respectfully submitted that these claims are allowable for each and all the reasons set forth above.

Finally, the Examiner has rejected claim 8 as being obvious over Cocjin by contending that Cocjin discloses "applicant's basic inventive concept" except for the amount of time it takes to move between the extended and collapsed position. As set forth above, multiple reasons are set forth as to why applicant's invention includes structural details not remotely found or suggested by Cocjin. Also, the time of the movement of the actuating member in claim 8 is important to simulate the movement of the animated tree. Again, Cocjin does not suggest or teach the operative structure of

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the present invention nor does he remotely suggest or teach the timing and operation of the present  
claimed invention.

It is respectfully submitted that claims 1-5 and 7-8 are in condition for allowance.

Permission is granted to charge the Commissioner is authorized to charge any fees or credit  
any amounts incident to the filing of this Amendment to Deposit Account No. 05-1060.

Respectfully submitted,

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Paul L. Brown  
EMRICH & DITHMAR LLC  
Suite 2080  
125 South Wacker Drive  
Chicago, Illinois 60606  
(312) 606-2104 - Phone  
(312) 663-9822 - Fax  
EmrichPLB@aol.com - E-Mail



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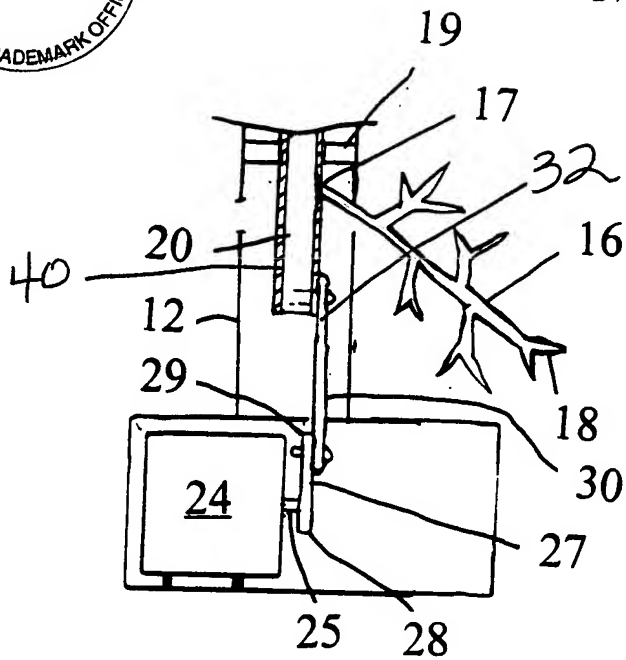


FIG. 4

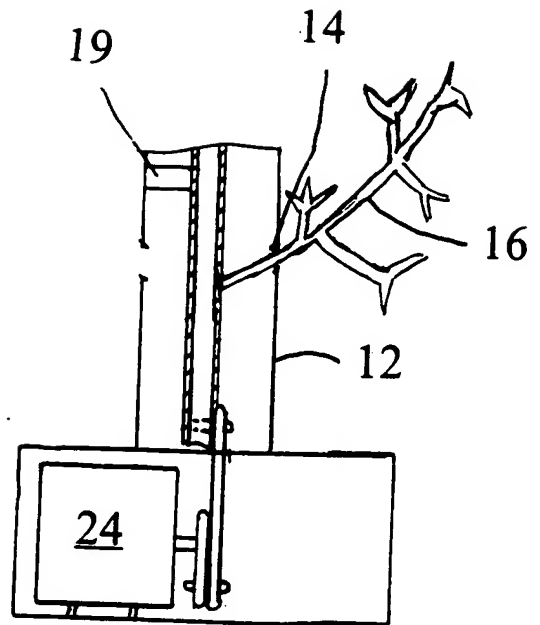


FIG. 5

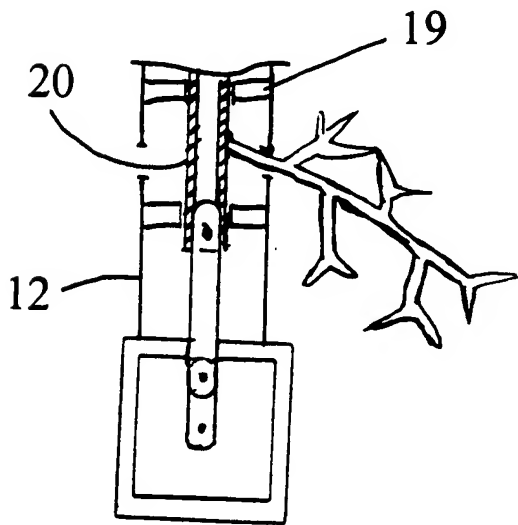


FIG. 6

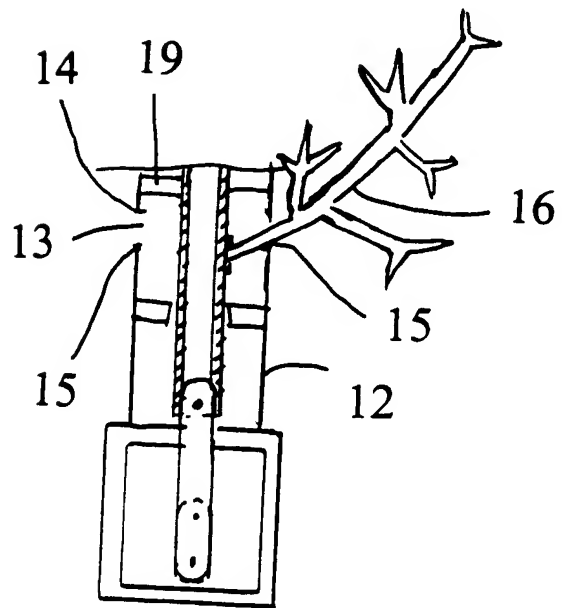


FIG. 7